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April 14, 2005

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Guy M Hicks
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VIA HAND DELIVERY

Hon Pat Miller, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re. *Joint Petition for Arbitration of NewSouth Communications Corp., et al. of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended*
Docket No. 04-00046

Dear Chairman Miller:

Enclosed are the original and fourteen copies of the parties' *Joint Motion to Move Issues to Generic Proceeding*. Counsel for the Joint Petitioners has given me permission to sign on their behalf. Copies of the enclosed are being provided to counsel of record.

Very truly yours,

Guy M Hicks

GMH ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: ***Joint Petition for Arbitration of NewSouth Communications Corp., et al. of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended***

Docket No. 04-00046

JOINT MOTION TO MOVE ISSUES TO GENERIC PROCEEDING

NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom V, Inc. and KMC Telecom III, LLC, and Xspedius Communications, LLC on behalf of its operating subsidiaries named in this proceeding) (collectively, the "Joint Petitioners") and BellSouth Telecommunications, Inc. ("BellSouth") (together, the "Parties") hereby file this Joint Motion to move certain arbitration issues to Generic Proceeding ("Motion") and to declare certain arbitration issues moot. In support of their request, the Parties state the following:

1. Joint Petitioners and BellSouth are currently engaged in a section 252 arbitration before the Tennessee Regulatory Authority ("Authority"). The hearing was conducted on January 25-27, 2005. Post-hearing briefs will be filed on April 15, 2005

2. In November 2004, BellSouth filed with the Authority a petition which sought the Authority's resolution of issues related to, *inter alia*, several changes of law resulting from the Federal Communications Commission's ("FCC") Triennial Review Order, FCC 03-36, 18 FCC Rcd 16978 (Aug. 21, 2003) ("*TRO*") and the FCC's *Order and Notice of Proposed Rulemaking* in WC Docket No. 04-313, CC

Docket No. 01-338 (rel. Aug. 20, 2004) ("*Interim Rules Order*") ("*IRO*"). By Authority order, a Generic Proceeding was established (Docket No. 04-00381).

3. On February 4, 2005, the FCC released its *Triennial Review Remand Order*, FCC 04-290, WC Docket No. 04-313, CC Docket No. 01-338 (rel. Feb. 4, 2005) ("*TRRO*"). Issues relating to the *TRRO* will be addressed in the Generic Proceeding.

4. One of the issues proposed for the Generic Proceeding is substantially similar to Item 23 in the arbitration ("*Arbitration Item 23*"). The Parties believe that Arbitration Item 23 is impacted by the FCC's release of the *TRRO* and thus request that it be moved to the Generic Proceeding for consideration and resolution because (1) the issue and the Parties' positions with respect thereto may evolve as a result of the *TRRO* and the Parties' future negotiations with respect to how the *TRRO* should be incorporated into the new Agreements that result from the above-captioned arbitration, and (2) the Authority has established a docket wherein these issues can be resolved and the results then can be folded back into the above-captioned arbitration dockets and the arbitrated agreements that result therefrom. The Parties note that this *Motion* contemplates that the briefing of the Arbitration Item 23 be done in the Generic Proceeding.

5. In requesting that Arbitration Item 23 be moved into the Generic Proceeding, neither party waives any arguments related to that issue or any arguments related to any of the other outstanding disputes between them or any arguments with respect to issues that remain in the arbitration.

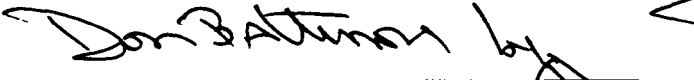
6. Accordingly, the Parties request that the Authority move Arbitration Item 23 into the Generic Proceeding. Further, to the extent the parties do not negotiate otherwise, the Parties request that the resolution of Arbitration Item 23 be folded back into the above-captioned arbitration docket so that it can be properly incorporated into the arbitrated agreements that result therefrom.

WHEREFORE, for the foregoing reasons, Joint Petitioners and BellSouth request that the Authority move Arbitration Item 23 to the Generic Proceeding

Respectfully submitted,

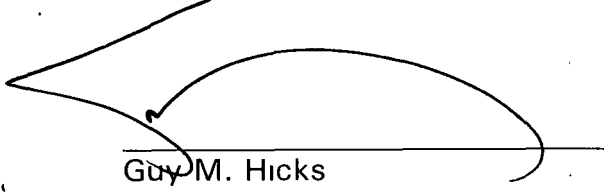
Farrar & Bates

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CERTIFICATE OF SERVICE

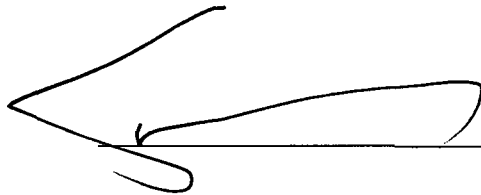
I hereby certify that on April 14, 2005, a copy of the foregoing document was served on the following, via the method indicated

- ☐ Hand
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A handwritten signature in black ink, appearing to read 'John J. Heitmann', is written over a horizontal line.